

INTERNAL REVENUE SERVICE
Director, Exempt Organizations

c/o McCaslin Industrial Park
2 Cupania Circle
Monterey Park, CA 91755
[REDACTED]

DEPARTMENT OF THE TREASURY
Western Area

Date: 1-20-00

Employer Identification Number:
[REDACTED]

Contact Person:
[REDACTED]

Contact Telephone Number:
[REDACTED]
[REDACTED]

Dear Applicant:

We have considered your application for exemption from federal income tax as an organization described in section 501(c)(3) of the Code.

The information submitted indicates that you were incorporated as a [REDACTED] corporation.

FACTS:

Your Articles of Incorporation state that your specific purpose is to promote public knowledge concerning issues affecting the composer and songwriter communities and to provide legal and financial support in connection with those issues.

You state in your application that you plan to operate an informational website that will be of interest to composers, songwriters and lyricists. Everyone from a first time songwriter to an experienced composer can learn and research issues both legal and otherwise. This activity will compose [REDACTED] percent of your organization's time. The website is not operational as of this date.

You also plan to distribute grants to certain indigent or needy composers and songwriters to assist them in asserting their legal rights concerning their composition and performing rights. You plan to award grants of \$[REDACTED] each year to indigent composers to help them assert their legal rights in relation to onerous business practices. An example of an individual who may qualify for a grant is a songwriter whose song was stolen by a publisher. You state that it is not necessary for a grantee to be a member of your organization.

To be a member of your organization, one must be a songwriter, composer or lyricist, attorney or other person active in the music business. Your dues structure starts at \$[REDACTED] a year for a regular member and goes to \$[REDACTED] a year for a corporate sponsor. The public will have access to your web site, but only members will have access to all parts of your web site. The private area of the website will have a chat room for members and an area where you will update members on grant status and current issues.

ISSUE:

Does the organization qualify for exemption from Federal income tax as an organization described in section 501(c)(3) of the Code?

LAW:

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable or other exempt purposes.

Section 1.501(c)(3)-1(a) of the Income Tax Regulations states that to be tax exempt, an organization must be both organized and operated exclusively for one or more exempt purposes specified in section 501(c)(3) of the Code. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(2) of the regulations states that the term "charitable" is used in section 501(c)(3) of the Code in its generally accepted legal sense. It includes the relief of the poor and distressed or the underprivileged and the promotion of social welfare by organizations designed to eliminate prejudice and discrimination or to defend human and civil rights secured by law.

In Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279 (1945), the Supreme Court interpreted the requirement in section 501(c)(3) that an organization be "operated exclusively" by indicating that in order to fall within the claimed exemption, an organization must be devoted to exempt purposes exclusively. The presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number and importance of truly exempt purposes.

Revenue Ruling 80-287, 1980-2 C.B. 185 holds that a non-profit lawyer referral service that arranges for any member of the general public an initial half-hour appointment, for a nominal charge, with a lawyer whose name is on an approved list maintained by the organization is not exempt under section 501(c)(3) of the Code. As the program was open

to all members of the general public, it was not operated exclusively for the relief of the poor, distressed, or underprivileged. The organization's activities were directed toward assisting individuals in obtaining preventive or remedial legal services and which were not specifically designed to eliminate prejudice or discrimination or to defend human and civil rights secured by law.

DISCUSSION AND ANALYSIS:

Our analysis of your application indicates that approximately 10 percent of your organization's time and resources will be allocated to your grant making activities. You plan to award grants of \$1,000 or more to "indigent" composers, lyricists and songwriters who are pursuing legal action against individual(s) who have stolen their material. You have not provided a clear definition of the term "indigent" other than to say that it is someone who is unable to bear the costs of litigation. The grant will be used to help defray attorney's costs incurred in the initiation of a lawsuit. A successful lawsuit could possibly generate thousands of dollars or more for the grant recipient. The intended use of the grants is not to "eliminate prejudice and discrimination or defend human and civil rights secured by law" as described in the regulations and Rev. Rul. 80-287.

Because you have a substantial non-exempt purpose of assisting individuals who are pursuing legal action to recover lost royalty income and who are not attempting to eliminate prejudice and discrimination or defend human and civil rights, you are not operated exclusively for one or more exempt purposes as defined in section 501(c)(3) of the Code and regulations.

CONCLUSION:

It is the position of the Internal Revenue Service, based on the information submitted, that you do not qualify for exemption under section 501(c)(3) of the Code inasmuch as you are not organized and operated exclusively for any of the specified purposes within that section.

Contributions to you are not deductible under section 170 of the Code.

You are required to file federal income tax returns on Form 1120.

If you are not in agreement with this proposed determination, we recommend that you request a hearing with our office of Regional Director of Appeals. Your request for a hearing should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange for a hearing. The hearing may be held at the office of Regional Director of Appeals, or if you request, at a mutually convenient District office.

If we do not hear from you within 30 days from the date of this letter, and you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies and will

then become our final determination. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

Steven T. Miller

Steven T. Miller
Director, Exempt Organizations

Enclosures:
Publication 892
Notice 1214
Form 6018